

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JASON RAY CLARK,

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Plaintiff,

)

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vs.

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Case No. 4:04CV1570 RWS

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DAN BULLOCK,

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)

Defendant.

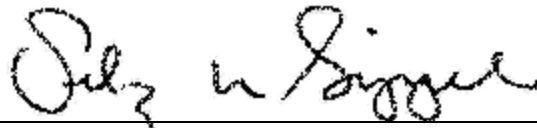
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MEMORANDUM AND ORDER

This matter is before me on defendants’ motion to dismiss Count IV of plaintiff’s amended complaint. In this § 1983 case, plaintiff pleads a claim of respondeat superior liability against defendant St. Francois County. Although plaintiff acknowledges that such a claim is foreclosed under existing law, he nevertheless urges the Court to “modify” the rule based upon the dissenting opinions of Justice Breyer in Board of the County Commissioners of Bryan County v. Brown, 520 U.S. 397 (1997), and Justice Stevens in Oklahoma City v. Tuttle, 471 U.S. 808 (1985). Plaintiff does not ask me to modify the law of respondeat superior liability as pronounced by the United States Supreme Court and the Eighth Circuit Court of Appeals; he asks me to overrule it. This I cannot do. Because I am bound to follow the decisions of the Supreme Court and the Eighth Circuit, I must grant defendants’ motion to dismiss Count IV of plaintiff’s amended complaint.

Accordingly,

IT IS HEREBY ORDERED that defendants' motion to dismiss Count IV of plaintiff's amended complaint [#44] is granted, and Count IV of plaintiff's amended complaint is dismissed with prejudice.

A handwritten signature in black ink, appearing to read "Rodney W. Sippel", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 27th day of June, 2006.